

Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRAIG T. CARR,

Defendant.

NO. 10-0222 RAJ

DEFENDANT CRAIG CARR'S REPLY
MEMORANDUM IN SUPPORT OF HIS
MOTION TO VACATE IMPOSITION OF
FINE

**NOTED FOR HEARING:
JUNE 29, 2012**

INTRODUCTION

Mr. Carr respectfully requests that this Court vacate the fine it imposed at the December 10, 2010 Sentencing Hearing. This relief is consistent with the Court's intent at the time the fine was initially imposed, a fact not disputed by the Government. Moreover, the objections raised by the Government do not apply and do not warrant denial of the requested relief.

DISCUSSION

The Government does not dispute the merits of Mr. Carr's request, nor the underlying basis—that, at the time of the Sentencing Hearing—this Court would have been “in a different position [had Mr. Carr's divorce been final at that time] and would give greater consideration for the opportunity not to impose the fine” and that this Court may make the application [to

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1 reduce or vacate the fine] when that [the finalization of Mr. Carr's divorce] takes place.”¹ It
2 is also worth noting that the Government raised no objection to this determination at the time
3 of the Sentencing Hearing.

4 Mr. Carr's divorce became final during the time his appeal was pending in the Ninth
5 Circuit, thereby precluding his ability to bring his present motion before this Court. The
6 Ninth Circuit has since, however, resolved Mr. Carr's appeal and remanded this matter back
7 to this Court.

9 The objections raised by the Government do not prevent this Court from granting Mr.
10 Carr's requested relief as they do not apply. As an initial matter, it should be noted that Mr.
11 Carr is simply asking that this Court impose a fine in the amount it apparently intended to at
12 the time of the Sentencing Hearing, but was unable or unwilling to as Mr. Carr's divorce was
13 not final at that time. Given the changed circumstances, however, Mr. Carr's Motion is now
14 timely.

16 Moreover, Mr. Carr's Motion is not one asking for a “re-sentence” or to “correct” the
17 sentence differently than what was intended. Rather, Mr. Carr is simply asking that this Court
18 reduce, or vacate, the fine consistent with this Court appeared to intend to do at the time of
19 sentencing, but did not do because the circumstances at the time did not warrant a smaller, or
20 no, fine.

22 Finally, the Government's objections should be rejected—as it failed to object to this
23 Court's invitation to Mr. Carr to seek his requested relief after his divorce became final.

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¹ Report of Proceedings, p. 38:12-39:4, 41:14-24.

CONCLUSION

Given these circumstances, Mr. Carr respectfully requests that this Court vacate its order imposing a fine in this case.

DATED this 29th day of June, 2012.

SKELLENGER BENDER, P.S.

s/ Jeffrey C. Grant
Jeffrey C. Grant, WSBA No. 11046
Attorneys for Craig Carr

CERTIFICATE OF SERVICE

I certify that on June 29, 2012, I electronically filed Defendant Craig Carr's Reply Memorandum in Support of His Motion to Vacate Imposition of Fine and this Certificate of Service with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to Assistant United States Attorney Anastasia Bartlett.

s/ Kelli Huerta
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I certify that on June 29, 2012 I electronically filed Defendant Craig Carr's Reply Memorandum in Support of His Motion to Vacate Imposition of Fine and this Certificate of Service with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to Assistant United States Attorney Matthew D. Diggs.

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